

IN THE CLAIMS:

1. (Currently Amended) A method for booting up a multiple function device, the method comprises:
 - determining a configuration state of the multiple function device;
 - selecting one of a plurality of functional modes based on the configuration state;
 - accessing memory of the multiple function ~~handheld~~ device to retrieve a functional boot algorithm comprising a first boot algorithm and a second boot algorithm wherein the second boot algorithm corresponds ~~corresponding~~ to the one of the plurality of functional modes;
 - determining whether the ~~functional~~ second boot algorithm is executable;
 - when the ~~functional~~ second boot algorithm is not executable, determining whether the multiple function device is operably coupled to a host;
 - when the multiple function device is ~~operable~~ operably coupled to the host, downloading the ~~functional~~ second boot algorithm from the host; and
 - executing the ~~functional~~ first boot algorithm and second boot algorithm.
2. (Currently Amended) The method of Claim 1 wherein the plurality of functional modes comprises at least two of:
 - a digital audio player;
 - a file storage;
 - a digital multimedia player;
 - an extended memory device;
 - a digital audio recorder;
 - a digital multimedia recorder;
 - a personal data assistant; and
 - an extended memory device with a set of instructions to repair a ~~the~~ second boot algorithm.

3. (Currently Amended) The method of Claim 1 wherein the ~~functional~~ second boot algorithms configures the multiple function device as an extended memory device when the multiple function device is ~~operable~~ operably coupled to the host.

4. (Currently Amended) The method of Claim 3, wherein the extended memory device receives a set of instructions to repair the ~~functional~~ second boot algorithm corresponding to the plurality of functional modes from the host.

5. (Currently Amended) The method of Claim 1, wherein downloading the ~~functional~~ second boot algorithm occurs prior to expiration of a time out period when the multiple function device is operably coupled to the host.

6. (Currently Amended) The method of Claim 5, further comprising shutting down the multiple function device after expiration of a time out period when the multiple function device is not operably coupled to the host.

7. (Currently Amended) The method of Claim 1, wherein the configuration state includes booting inputs that comprise boot pins and wherein a location of the ~~functional~~ second boot algorithm is specified by the configuration state.

8. (Currently Amended) The method of Claim 5, wherein the location of the ~~functional~~ second boot algorithm corresponds to an accessible memory location selected from the group consisting of:

universal serial bus (USB) extended memory;
flash memory;
EPROM;
I2C memory device;
removable disk memory; and
hard-drive memory.

9. (Original) The method of Claim 1, wherein an event that triggers booting up comprises a change in status of an operable connection between the multiple function device and the host.

10. (Original) The method of Claim 9, wherein an initial status of the operable connection is a 1st external state, and wherein following the change the operable connection is a 2nd external state.

11. (Currently Amended) The method of Claim 10, wherein in the 1st external state the multiple function device is ~~operable~~ operably coupled to the host and wherein in the 2nd external state the multiple function device is not ~~operable~~ operably coupled to any host.

12. (Currently Amended) The method of Claim 10, wherein in the 1st external state the multiple function device is not ~~operable~~ operably coupled to any host and wherein in the 2nd external state the multiple function is ~~operable~~ operably coupled to the host.

13. (Currently Amended) The method of Claim 10, wherein in the 1st external state the multiple function device is ~~operable~~ operably coupled to a first host and wherein in the 2nd external state the multiple function device is ~~operable~~ operably coupled to a second host.

14. (Currently Amended) An apparatus for booting up a multiple function device, the apparatus comprises:

processing module;

read only memory; and

memory, wherein the processing module functions to:

determine a configuration state of the multiple function device;

select one of a plurality of functional modes based on the configuration state;

access memory of the multiple function ~~handheld~~ device to retrieve a boot

algorithm comprising a first boot algorithm and a second boot algorithm wherein the ~~functional~~ second boot algorithm

corresponding to the one of the plurality of functional modes;

determine whether the ~~functional~~ second boot algorithm is executable;

determine whether the multiple function device is operably coupled to a host, when the ~~functional~~ second boot algorithm is not executable;

download the ~~functional~~ second boot algorithm from the host, when the multiple function device is ~~operable~~ operably coupled to the host;

and

execute the ~~functional~~ first boot algorithm and second boot algorithm.

15. (Currently Amended) The apparatus of Claim 14, wherein the plurality of functional modes comprises at least two of:
- a digital audio player;
 - a file storage;
 - a digital multimedia player;
 - an extended memory device;
 - a digital audio recorder;
 - a digital multimedia recorder;
 - a personal data assistant; and
 - an extended memory device with a set of instructions to repair a ~~the~~ second boot algorithm.
16. (Currently Amended) The apparatus of Claim 14, wherein the first boot algorithm and second boot algorithms configure the multiple function device as an extended memory device when the multiple function device is ~~operable~~ operably coupled to the host.
17. (Currently Amended) The apparatus of Claim 14, wherein the processing module further functions to repair the ~~functional~~ second boot algorithm when the ~~functional~~ second boot algorithm is not executable.
18. (Currently Amended) The apparatus of Claim 14, wherein downloading the ~~functional~~ second boot algorithm occurs prior to expiration of a time out period when the multiple function device is operably coupled to the host.
19. (Original) The apparatus of Claim 18, further comprising shutting down the multiple function device after expiration of a time out period when the multiple function device is not operably coupled to the host.
20. (Currently Amended) The apparatus of Claim 14, wherein the configuration state includes booting inputs that comprise boot pins and wherein a location of the ~~functional~~ second boot algorithm is specified by the configuration state.

21. (Currently Amended) The apparatus of Claim 20, wherein the location of the ~~functional~~ second boot algorithm corresponds to an accessible memory location selected from the group consisting of:

- universal serial bus (USB) extended memory;
- flash memory;
- EPROM;
- I2C memory device;
- removable disk memory; and
- hard-drive memory.

22. (Original) The apparatus of Claim 14, wherein an event that triggers booting up comprises a change in status of an operable connection between the multiple function device and the host.

23. (Original) The apparatus of Claim 22, wherein an initial status of the operable connection is a 1st external state, and wherein following the change the operable connection is a 2nd external state.

24. (Currently Amended) The apparatus of Claim 23, wherein in the 1st external state the multiple function device is ~~operable~~ operably coupled to the host and wherein in the 2nd external state the multiple function device is not ~~operable~~ operably coupled to any host.

25. (Original) The apparatus of Claim 23, wherein in the 1st external state the multiple function device is not operable coupled to any host and wherein in the 2nd external state the multiple function is operable coupled to the host.

26. (Original) The apparatus of Claim 23, wherein in the 1st external state the multiple function device is operable coupled to a first host and wherein in the 2nd external state the multiple function device is operable coupled to a second host.

Rejections Under 35 USC § 112

Claims 1, 2, 3, 14, 15 and 16 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner states:

Claim 1 recites the limitation "the multiple function handheld device" in lines 7-8 (emphasis added by Examiner). There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the second boot algorithm" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the functional algorithms" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is unclear if these algorithms (emphasis added by Examiner) refer to the algorithm from the accessible

Claim 14 recites the limitation "the multiple function handheld device" in lines 10-11 (emphasis added by Examiner). There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the second boot algorithm" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the functional algorithms" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if these algorithms (emphasis added by Examiner) refer to the algorithm from the accessible memory and the accessible host.

The applicant respectfully submits that the claims have been amended to overcome the rejections under 35 U.S.C. 112, second paragraph. Therefore the applicant respectfully requests that the examiner's rejections to Claims 1, 2, 3, 14, 15 and 16 be withdrawn and that these claims be allowed.

Claim Objections

Claims 1, 3, 11, 12, 13, 14, 16, 24, 25, and 26 stand objected to because of informalities.

The examiner states:

Claim 1, line 16 recites "operable coupled". It is believed that the limitation was intended to recite, "operably coupled".

Claim 3, 11 - 14, 16, and 24 - 26 contain the same deficiency as that described with respect to Claim 1. It is incumbent upon Applicant to ensure any amendment addresses these deficiencies.

The applicant respectfully submits that the claims have been amended to overcome the objections. Therefore the applicant respectfully requests that the examiner's objections to Claims 1, 3, 11, 12, 13, 14, 16, 24, 25, and 26 be withdrawn and that these claims be allowed.

Rejections Under 35 USC § 103

Applicant respectfully points out that in order to combine references for an obviousness rejection, there must be some teaching, suggestion or incentives supporting the combination. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989). The mere fact that the prior art could be modified does not make that modification obvious unless the prior art suggests the desirability of the modification. *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). In addition, it is well established that Applicant's disclosure cannot be used to reconstruct Applicant's invention from individual pieces found in separate, isolated references. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988).

Claims 1, 5-7, 9-14, 17-20, and 22 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over SAWANO et al (U.S. Patent No. 6,544,126), in view of KAWADE et al (U.S. Patent No. 6,839,835). The examiner states:

As per Claim 1, SAWANO et al. (hereinafter, referred to as "SAWANO") teach a method for booting up a multiple function device (*portable game machine - col. 5, lines 45-52; and POWER-ON / INITIALIZATION - Fig. 6, Step 1*), the method comprising:

determining a configuration state of the multiple function device (*Fig. 6-steps S3 and S5; and col. 11, lines 6-9, where the state of an existing cartridge is the configuration state*);

selecting one of a plurality of functional modes based on the configuration state (*depending on whether or not the cartridge is in the portable gaming machine, the portable gaming machine can go into "download mode", therefore, at least one other mode, inherently, must exist; [i.e. - if the cartridge is inserted, the portable gaming machine can go into a "play mode"] - col. 16, lines 8-12*)

accessing a memory to retrieve a functional algorithm corresponding to the configuration state (*col. 11, lines 9-13*);

when the functional algorithm is not executable, determining whether the multiple function device is operably coupled to a host (*col. 11, lines 15-26 and Fig. 6, step S9*);

when the multiple function device is operably coupled to the host, downloading the functional algorithm from the host (*Fig. 6, steps S11-S13; and col. 11, lines 27-37*); and

executing the functional algorithm (*col. 11, lines 49-54*).

SAWANO, however, does not teach that the multiple function device accesses its own memory to retrieve a functional algorithm corresponding to the one of the plurality of functional modes. Also, SAWANO does not teach a step of determining whether the functional algorithm is executable or not. Specifically, SAWANO teaches a multiple function device that accesses the memory of a game cartridge to retrieve a functional algorithm corresponding to the one of plurality of functional modes, and when the functional algorithm is not executable, the multiple function device checks to see a connection to a host exists. If so, the functional algorithm is downloaded from the host and is executed at the multiple

function device. SAWANO fails to teach that the multiple function device accesses its own integrated memory and whether it checks to see whether the algorithm is executable or not.

KAWADE et al. (hereinafter, referred to as "KAWADE") also teach a method for booting (*col. 2, lines 34-36 - an IPL or Initial Program Load is a term sometimes used in place of "booting up"*) a multiple function device (*col. 7, lines 21-25*), the method comprising:

accessing memory of the multiple function device to retrieve a functional algorithm corresponding to one of a plurality of functional modes (*program is checked in ROM before downloading program from an external source - col. 6, lines 11-14; based off of an operation mode - col. 3, lines 4-15*);

determining whether the functional algorithm is executable (*col. 6, lines 11-14*)

It would have been obvious to one of ordinary skill in the art to combine the teachings of SAWANO and KAWADE because they both teach a method of booting a multiple function device, the method comprising determining a configuration state, selecting a functional mode based on the configuration state, retrieving an algorithm from a memory. KAWADE's teaching of accessing memory of the multiple function device shows that it checks for the algorithm stored on the memory of the device itself, not an algorithm stored on an external component. KAWADE's teaching of determining whether the functional algorithm is executable allows the multiple function device to seek an alternate means of booting if the algorithm is not executable.

As per Claim 5, it would have been obvious to one of ordinary skill in the art that downloading the functional algorithm occurs prior to expiration of a time-out period when the multiple function device is operably coupled to the host because otherwise, the functional algorithm would not be executable if a time-out session occurred before completion of the download.

As per Claim 6, it would have been obvious to one of ordinary skill in the art to shut down the multiple function device after expiration of a time-out period

when the multiple function device is not operably coupled to the host. This would have been obvious because if the multiple function device is waiting for execution of an algorithm that cannot be executed, the multiple function device will unnecessarily consume power in the time period of waiting.

As per Claim 7, it would have been obvious to one of ordinary skill in the art that the configuration state includes booting inputs that comprise boot pins and wherein a location of the functional algorithm is specified by the configuration state.

As per Claim 9, it is known in the art that a multiple function device can cause a boot-up routine if it either connected or disconnected to/from a host. Therefore, it would have been obvious to one of ordinary skill in the art that an event that triggers booting up comprises a change in status of an operable connection between the multiple function device and the host.

As per Claims 10 - 13, it would have been obvious to one of ordinary skill in the art that the multiple function device is a certain state when coupled to a host and in another state when not connected to the host. In order for the multiple function device to perform different tasks (retrieve algorithms from a particular memory, whether it be its own or from an external device), one of at least two states must be present so the multiple function device is able to distinguish its function.

Claims 14, 17-20, and 22 - 26 are directed to an apparatus for booting up a multiple function device as set forth in Claims 1, 5-7, and 9-13. Since SAWANO and KAWADE teach the claimed booting up a multiple function device method, they also teach the apparatus for booting up a multiple function device. The multiple function device would inherently require a processing module, ROM, and memory.

Applicant respectfully submits that there is no motivation, teaching or suggestion to combine SAWANO with KAWADE. Therefore, the rejection on a combination of these references is inappropriate. Withdrawal of the rejection allowance of Claims 1, 5-7, 9-14, 17-20, and 22 - 26 respectfully requested.

The applicant respectfully submits that the present invention may be distinguished from SAWANO and Kawade. The applicant respectfully submits with respect to SAWANO that the portable game machine of SAWANO may be distinguished from the multiple function device of the instant application. This portable game machine of SAWANO is used solely to play games. For example the games may be played as downloaded from a cartridge in a first state or downloaded from a home video game machine 14. "A second auxiliary program can be downloaded as a game program... [into] the portable game machine 12 for execution." (SAWANO Col. 9, Lines 48-50) The multiple function device in the present invention may operate in a variety of functional modes such as a digital audio player, file storage, digital multimedia player, extended memory device, digital audio recorder, digital multi-media recorder, personal data assistant.

The applicant respectfully submits that the portable gaming machine of SAWANO does not operate necessarily in multiple modes. Rather it can download a program such as a game from a cartridge or it can download a program from a home video game machine. In either case the portable gaming machine is simply that, a portable game machine. This portable game machine does not offer multiple functionality of serving as a digital audio player, a file storage device, a multimedia player, a digital audio recorder, multimedia recorder, and personal data assistant as is taught and claimed in the present invention. The portable gaming machine of SAWANO accesses a memory, a non-internal memory (i.e., a memory cartridge or from an external device such as a home video game machine) to retrieve a program. The present invention, as claimed, accesses internal memory which may be differentiated from the above-described game cartridge or connection to an external host system. Additionally this multifunction device as claimed retrieves a boot algorithm which may be divided into a first boot algorithm and second boot algorithm where the second boot algorithm corresponds to the configuration state.

SAWANO does not determine when the functional algorithm is not executable as cited by the examiner with respect to (Column 11, Lines 13-26 and Figure 6, Step S9). Rather in this instance the programmable game machine of SAWANO is executing a series of steps having decisions wherein one of the decisions determines whether or not a second program is available. Availability must be distinguished from executability. SAWANO merely determines whether or not the program may be accessed while the instant application determines whether or not the

integrity of the program (i.e. is the program available and executable. Should the version of the boot algorithm stored in internal memory not be executable the multiple function device of the instant application, if attached to a host system, may then download that second boot algorithm in order to properly configure the multiple function device in a specific functional mode. Again SAWANO is merely determining whether or not an individual game may be executed is available.

With respect to Kawade, the applicant respectfully submits that the examiner improperly states that Kawade teaches that a program is checked in ROM. The applicant respectfully submits that the cites the examiner has provided, Kawade, Column 6, Lines 11-14 and Column 3, Lines 14-15, may be distinguished from the instant application. Kawade merely checks physical memory. "The memory check program included in the initial program is executed after starting of the initial program to ascertain whether there is a defect in the ROM." (Column 6, Lines 11-14). Thus Kawade is merely teaching that a program in the initial program is executed to physically check the memory, to check for a defect in ROM (i.e., memory). The applicant respectfully submits that the instant application checks the program stored in memory (i.e. the instant application determine if a second boot algorithm is executable.) Verifying the physical memory may be differentiated from determining the availability and integrity of an algorithm stored to memory.

Applicant further submits that neither SAWANO nor KAWADE alone nor the combination of the two teaches or suggests make obvious the invention recited in the Claims because the cited references do not disclose a two part boot algorithm. This allows a first boot algorithm common to the various functional modes to be executed. Then a second boot algorithm dependent on the functional mode is executed. Rather SAWANO merely teaches that a portable game machine can be configured to play games from a cartridge or a home video game. SAWANO makes no mention of a bifurcated boot algorithm much less that a portion of the boot algorithm is dependent on the functional mode of the multifunction device. KAWADE also fails to teach the use of a two part boot algorithm. Furthermore, KAWADE is improperly cited as providing a check of a portion of the boot algorithm when in fact KAWADE merely performs a physical memory check.

The applicant respectfully traverses the examiner assertion that Claim 5, 6, 7, 9, 10-13 are obvious. The examiner merely states that "would have been obvious to one of ordinary skill in

the art.” The applicant respectfully submits that the mere fact that the prior art could be modified does not make that modification obvious unless the prior art suggests the desirability of the modifications. As such the applicant respectfully requests that the examiner identify how the prior art suggests the desirability of the modifications.

Thus, the applicant respectfully submits that the rejection based on SAWANO and KAWADE is not proper. Applicant, therefore, respectfully requests the Examiner to reconsider and withdraw the rejection to allow Claim 1, 5-7, 9-14, 17-20, and 22 – 26.

Claims 2, 3, 4, 8, 15, 16, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over SAWANO et al (U.S. Patent No. 6,544,126), in view of KAWADE et al (U.S. Patent No. 6,839,835), and further in view of Lian et al. (U.S. PG-PUB No. 2003/0176935). The examiner states:

As per Claim 2, SAWANO and KAWADE teach a multiple function device with a plurality of functional modes as mentioned above, however, SAWANO and KAWADE do not specifically disclose that at least two of the functional modes are of: a digital audio player; a file storage; a digital multimedia player; an extended memory device; a digital audio recorder; a digital multimedia recorder; a personal data assistant; and an extended memory device. Specifically, SAWANO and KAWADE both teach a multiple function device that has a plurality of functional modes. SAWANO's disclosure of a portable game machine could comprise a digital audio player, file storage, digital multimedia player, etc., as other portable game machines available today, but fails to teach so specifically.

Lian et al. (hereinafter, referred to as "Lian") disclose a multiple function device (*paragraph [0026], lines 4-7*) that selects one of a plurality of functional modes based on the configuration state (*based on the multiplexing circuit, the multiple function devices determines whether it is in an audio or data mode - paragraph [0022], lines 1-3*) where the functional modes are of a digital audio player and a file storage (*paragraphs [0004] and [0006]*).

It would have been obvious to combine the teachings of SAWANO - KAWADE and Lian because they all teach a multiple function device having a plurality of functional modes. Lian's disclosure of the multiple function device

comprising a digital audio mode and file storage mode teaches the specific modes of a plurality of modes.

As per Claim 3, it would have been obvious to one of ordinary skill in the art that the functional algorithms configure the multiple function device as an extended memory device when the multiple function device is operably coupled to the host because the Applicant's Admission of Prior Art (AAPA) teaches that thumb drives can be used for extended memory functionality (*Specification, paragraph [0005], line 6*). It is well known in the art that a thumb drive has an integrated USB interface for connecting to a host computer. Lian's teaching of a multiple function device shows that it may be used as a thumb drive (*Figure 2*).

As per Claim 4, it would have been obvious to one of ordinary skill in the art for the multiple function device, or extended memory, to receive instructions from an operably coupled host, the instructions for repairing the functional algorithm corresponding to the plurality of functional modes.

As per Claim 8, it would have been obvious to one of ordinary skill in the art that the location of the functional algorithm corresponds to an accessible memory location selected from either a USB extended memory; flash memory; EPROM (or EEPROM); I2C memory device; removable disk memory; or hard-drive memory. It is well known that many portable audio players that also function as data storage devices, as disclosed by Lian, use a USB extended memory or flash memory as means for storage of instructions or algorithms. It is also well known that I²C interface, removable disk memory, and hard-drive memory can also be used for multiple function devices as an accessible memory location used, in part, for storage of functional algorithms.

Claims 15, 16 and 21 are directed to an apparatus for booting up a multiple function device as set forth in Claims 2, 3, and 8. Since SAWANO, KAWADE, and Lian teach the claimed booting up a multiple function device method, they also teach the apparatus for booting up a multiple function device. The multiple function device would inherently require a processing module, ROM, and memory

Applicant respectfully submits that there is no motivation, teaching or suggestion to combine SAWANO with KAWADE and or LAIN. Therefore, the rejection on a combination of these references is inappropriate. Withdrawal of the rejection allowance of Claims 2, 3, 4, 8, 15, 16, and 21 respectfully requested.

The applicant respectfully submits that the present invention may be distinguished from any combination of SAWANO, Kawade and Lain. The applicant respectfully submits with respect to SAWANO that the portable game machine of SAWANO may be distinguished from the multiple function device of the instant application. This portable game machine of SAWANO is used solely to play games. For example the games may be played as downloaded from a cartridge in a first state or downloaded from a home video game machine 14. "A second auxiliary program can be downloaded as a game program... [into] the portable game machine 12 for execution." (SAWANO Col. 9, Lines 48-50) The multiple function device in the present invention may operate in a variety of functional modes such as a digital audio player, file storage, digital multi-media player, extended memory device, digital audio recorder, digital multi-media recorder, and personal data assistant.

The applicant respectfully submits that the portable gaming machine of SAWANO does not operate necessarily in multiple modes. Rather it can download a program such as a game from a cartridge or it can download a program from a home video game machine. In either case the portable gaming machine is simply that, a portable game machine. This portable game machine does not offer multiple functionality of serving as a digital audio player, a file storage device, a multimedia player, a digital audio recorder, multimedia recorder, and personal data assistant as is taught and claimed in the present invention. The portable gaming machine of SAWANO accesses a memory, a non-internal memory (i.e., a memory cartridge or from an external device such as a home video game machine) to retrieve a program. The present invention, as claimed, accesses internal memory which may be differentiated from the above-described game cartridge or connection to an external host system. Additionally this multifunction device as claimed retrieves a boot algorithm which may be divided into a first boot algorithm and second boot algorithm where the second boot algorithm corresponds to the configuration state.

SAWANO does not determine when the functional algorithm is not executable as cited by the examiner with respect to (Column 11, Lines 13-26 and Figure 6, Step S9). Rather in this

instance the programmable game machine of SAWANO is executing a series of steps having decisions wherein one of the decisions determines whether or not a second program is available. Availability must be distinguished from executability. SAWANO merely determines whether or not the program may be accessed while the instant application determines whether or not the integrity of the program (i.e. is the program available and executable. Should the version of the boot algorithm stored in internal memory not be executable the multiple function device of the instant application, if attached to a host system, may then download that second boot algorithm in order to properly configure the multiple function device in a specific functional mode. Again SAWANO is merely determining whether or not an individual game may be executed is available.

With respect to Kawade, the applicant respectfully submits that the examiner improperly states that Kawade teaches that a program is checked in ROM. The applicant respectfully submits that the cites the examiner has provided, Kawade, Column 6, Lines 11-14 and Column 3, Lines 14-15, may be distinguished from the instant application. Kawade merely checks physical memory. "The memory check program included in the initial program is executed after starting of the initial program to ascertain whether there is a defect in the ROM." (Column 6, Lines 11-14). Thus Kawade is merely teaching that a program in the initial program is executed to physically check the memory, to check for a defect in ROM (i.e., memory). The applicant respectfully submits that the instant application checks the program stored in memory (i.e. the instant application determine if a second boot algorithm is executable.) Verifying the physical memory may be differentiated from determining the availability and integrity of an algorithm stored to memory.

With respect to Lian, the applicant respectfully submits that Lian fails to teach that the device has a two-part boot algorithm wherein the second part of the boot algorithm is determined by a functional mode to the operation of the device. Thus the applicant respectfully submits that the Lian fails to teach that the boot program may be divided between a first boot algorithm and second boot algorithm wherein the second boot algorithm may differ depending on the configuration state of the multiple function device. Thus in many instances this multiple function device although configured as in a particular mode in the instant application the multiple function device may not be able to offer the multiple modes of functionality within those specific configurations. The applicant respectfully submits that the device in Lian appears